

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, MARCH 03, 2015

The Council of the City of San José convened in Regular Session at 9:04 a.m. in the Council Chambers at City Hall.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, Matthews, Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

STRATEGIC SUPPORT SERVICES

3.2 Accept Labor Negotiations Update.

There was no report.

Documents Filed: Letter from Vera Todorov, President, The Association of Legal Professionals to Interim City Manager Norberto Dueñas, dated January 27, 2015, responding to the letter of February 11, 2015 regarding Measure B.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Vera Todorov, representing the Association of Legal Professionals (ALP) stated that ALP agrees with the Police Officers' Association that the framework for discussion is competitiveness and stability and that the process for achieving any agreement requires negotiation in good faith with the bargaining units.

CLOSED SESSION

Upon motion unanimously adopted, Council recessed at 9:06 a.m. to a Closed Session in Room W133 (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 Subsection (c) with respect to initiation of litigation in two (2) matters. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) with

CLOSED SESSION (Cont'd.)

respect to existing litigation: (1) Gonzales v. City of San José, et al; Names of Parties Involved: Mary Lou Gonzales, City of San José, as a municipal corporation, SJPD Detective Yvonne Delacruz in her official and individual capacity, SJPD Sgt. Archer, in his official and individual capacity, SJPD Homicide Detective Jamie (last name San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M; Amount of Money or Other Relief Sought: Damages According to Proof. (2) IAFF Local 230 v. City of San José; Names of Parties Involved: International Association of Firefighters Local 230, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-969-M. Amount of Money or Other Relief Sought: Damages According to Proof. (3) IFPTE Local 21 v. City of San José; Names of Parties Involved: International Federation of Professional and Technical Engineers Local 21, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-996-M; Amount of Money or Other Relief Sought: Damages according to proof. (4) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-924-M; Amount of Money or Other Relief Sought: Damages According to Proof. (5) American Federation of State, County and Municipal Employees, et al. v. City; Names of Parties Involved: American Federation of State, County and Municipal Employees, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-972-M; Amount of Money or Other Relief Sought: Damages According to Proof. (6) OE#3 v. City of San José; Names of Parties Involved: Operating Engineers Local Union No. 3, City of San José; Court: State of California Public Employment Relations Board; Case No: SF-CE-900-M. (7) San José Police Officers' Association v. City, et al; Names of Parties Involved: San José Police Officers' Association, City of San José, Board of Administration for Police and Fire Department Retirement Plan of City of San José and Does 1-100; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225926; Amount of Money or Other Relief Sought: Declaratory and injunctive relief. (8) San José Retired Employees Association, et al. v. City, et al; Names of Parties Involved: San José Retired Employees Association, Howard E. Fleming, Donald S. Macrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro, City of San José Does 1 – 50, Board of Administration for the Federated City Employees Retirement System; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-233660; Amount of Money or Other Relief Sought: Declaratory Relief and Verified Petition for Writ of Mandate. (9) Sapien, et al. v. City of San José, et al; Names of Parties Involved: Robert Sapien, Marty Kathleen McCarthy, Thanh Ho, Randy Sekany, Ken Heredia, City of San José, Debra Figone in her official as City Manager of the City of San José, Does 1-15, The Board of Administration for the 1961 San José Police and Fire Department Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case No: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (10) Harris, et al. v. City of San José, et al; Names of Parties Involved: Teresa Harris, Jon Reger, Moses Serrano, Suzann Stauffer, City of San José, Debra Figone in her official as City Manager of the City of San José,

CLOSED SESSION (Cont'd.)

The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226570; Amount of Money or Other Relief Sought: Challenge to Measure B. (11) Mukhar, et al. v. City of San José, et al; Names of Parties Involved: John Mukhar, Dale Dapp, James Atkins, William Buffington, Kirk Pennington, City of San José, Debra Figone in her official as City Manager of the City of San José, The Board of Administration for the 1975 Federated City Employees' Retirement Plan, Does 1-15; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-226574; Amount of Money or Other Relief Sought: Challenge to Measure B. (12) AFSCME, et al. v. City of San José, et al; Names of Parties Involved: American Federation of State, County and Municipal Employees, Local 101 on behalf of its members, City of San José, The Board of Administration for the Federated City Employees' Retirement Plan; Court: Superior Court of California, County of Santa Clara; Case: 1-12-CV-225928; Amount of Money or Other Relief Sought: Challenge to Measure B. (C) to confer with Real Property Designated Representatives pursuant to Government Code Section 54956.8: (1) Property: San José Arena, 525 Santa Clara Street, San José, California. Negotiating Parties: Nanci Klein, Jim Shannon, Bill Hughes, Patricia Deignan for City of San José and Jim Goddard, Sean Morely, Lucy LoFrumento for San José Arena Management; Under Negotiation: The direction will concern price and terms of payment; Likely Range of Value of Property: Negotiated price based on comparable rental values. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Designee Jennifer Schembri; Interim Director of Employee Relations; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors (ABMEI); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and ABMEI. (2) Association of Engineers & Architects (AEA); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AEA. (3) Association of Maintenance Supervisory Personnel (AMSP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and AMSP. (4) City Association of Management Personnel Agreement (CAMP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CAMP. (5) Confidential Employees' Organization, AFSCME Local 101 (CEO); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and CEO. (6) International Association of Firefighters, Local 230 (IAFF); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and International Association of Firefighters. (7) International Brotherhood of Electrical Workers (IBEW); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and IBEW. (8) Municipal Employees' Federation, AFSCME Local 101, AFL-CIO (MEF); Nature of Negotiations: Wages/Salaries, Hours,

CLOSED SESSION (Cont'd.)

Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and MEF; (9) International Union of Operating Engineers, Local No. 3 (OE#3); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc; Name of Existing Contract or MOA: Memorandum of Agreement between City of San José and San José Police Officers' Association. (11) Association of Legal Professionals of San José (ALP); Nature of Negotiations: Wages/Salaries, Hours, Working Conditions, etc. Web: <http://www.sanjoseca.gov/?nid=186>; Telephone for Employee Relations: 408-535-8150.

By unanimous consent, Council recessed from the Closed Session at 11:30 a.m. and reconvened to Regular Session at 1:32 p.m. in the Council Chambers.

Present: Council Members - Carrasco, Herrera, Jones, Kalra, Khamis, Matthews, Nguyen, Oliverio, Peralez, Rocha; Liccardo.

Absent: Council Members - All Present.

INVOCATION

Father Walter Suarez, Sacred Heart offered the Invocation. (District 3)

PLEDGE OF ALLEGIANCE

Mayor Sam Liccardo led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Ash Kalra and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (9-0-2. Absent: Carrasco, Oliverio.)

CEREMONIAL ITEMS

1.1 Presentation of a proclamation declaring the month of March 2015 as “National Women’s History Month” in the City of San José. (Herrera) (Rules Committee referral 2/25/15)

Mayor Sam Liccardo, Vice Mayor Rose Herrera and Council Members Carrasco and Matthews recognized the month of March 2015 as “National Women’s History Month” in the City of San José.

**1.2 Presentation of a proclamation declaring the month of March 2015 as “Arts Education Month” in the City of San José. (Rocha)
(Rules Committee referral 2/25/15)**

Mayor Sam Liccardo and Council Member Donald Rocha recognized the month of March 2015 as “Arts Education Month” in the City of San José.

CONSENT CALENDAR

Upon motion by Vice Mayor Rose Herrera, seconded by Council Member Pierluigi Oliverio and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0)

2.1 Approval of Minutes.

There were none.

2.2 Final Adoption of Ordinances.

There were none.

2.3 Approval of Council Committee Reports.

**(a) Rules and Open Government Committee Report of February 11, 2015.
(Mayor)**

Documents Filed: The Rules and Open Government Committee Report dated February 11, 2015.

Public Comments: David Wall opined about Montgomery Watson invoices.

Action: The Rules and Open Government Committee Report was approved. (11-0.)

(b) Neighborhood Services and Education Committee Report of February 12, 2015. (Rocha)

Action: Deferred to March 10, 2015 per City Clerk.

2.4 Mayor and Council Excused Absence Requests.

There were none.

2.5 City Council Travel Reports.

There were none.

2.6 Report from the Council Liaison to the Retirement Boards.

There were none.

2.7 Consider the appointment of one (1) member of the public to the Board of Administration for the Federated City Employees Retirement System to a term ending February 28, 2019. CEQA: Not a Project. (City Clerk)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated February 17, 2015, recommending the appointment of one member to the Federated City Employees Retirement System Board. (2) Supplemental memorandum from City Clerk Toni J. Taber, CMC, dated February 23, 2015, transmitting the name of the Federated City Employees Retirement System Board of Administration's nomination of Martin Dirks. (3) Memorandum from City Attorney Richard Doyle, dated February 24, 2015, transmitting background information. (4) Memorandum from Deputy Director of Planning, Building and Code Enforcement Diane Buchanan, dated February 17, 2015, transmitting no code violations for the applicant.

Action: The appointment of one (1) member of the public to the Board of Administration for the Federated City Employees Retirement System to a term ending February 28, 2019 was approved. (11-0.)

2.8 As recommended by the Rules and Open Government Committee on February 25, 2015:

- (a) Approve the Irish Flag Raising as a City Council sponsored Special Event and approving expenditure of City funds.**
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.**

CEQA: Not a Project. (Mayor)

[Rules Committee referral 2/25/15 – G(1)(a)]

Documents Filed: Memorandum from City Clerk Toni J. Taber, CMC, dated February 27, 2015, transmitting the recommendations of the Rules and Open Government Committee.

Action: The Irish Flag Raising as a City Council sponsored Special Event was approved and expenditure of funds and acceptance of donations from various individuals, businesses and community groups to support this event were authorized. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the Interim City Manager, Norberto Dueñas (Verbal Report).

Interim City Manager Norberto Dueñas announced that the Budget Office released the Five Year Economic Forecast and Revenue Projections on March 2, 2015. He also pointed out that the 7th Crime and Gang Convention Summit was held last Saturday at Mt. Pleasant High School and was attended by more than 300 people, including residents, Santa Clara County Staff, Community Based Organizations and School Districts.

3.3 Adopt a resolution authorizing the City Manager to apply for the DHS/FEMA-administered, 2014 Staffing for Adequate Fire and Emergency Response Grant for funding to restore positions eliminated in prior years and vacated through attrition. CEQA: Not a Project, File No. PP10-068(a), Grant Application. (Fire)

Documents Filed: Memorandum from Interim Fire Chief Curtis Jacobson, dated February 24, 2015, recommending adoption of a resolution and pointing out the grant application deadlines of March 6, 2015.

Motion: Vice Mayor Rose Herrera moved approval of the Staff recommendations. Council Member Johnny Khamis seconded the motion.

Public Comments: David Wall expressed support to the Staff recommendations.

Interim City Manager Norberto Dueñas responded to Council questions.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77293, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Apply to the U.S. Department of Homeland Security/Federal Emergency Management Agency for Grant Funding Under the 2014 Staffing for Adequate Fire and Emergency Response Program to Restore 14 Firefighter Positions", was adopted. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.1 (a) **Approve the First Amendment to the Construction Contract for the United States Patent and Trademark Office (USPTO) Project between the City and Turner Construction, Inc. to do the following:**
- (1) **Increase the amount of maximum compensation by \$3,965,110 for a total Maximum Contract Amount not to exceed \$13,601,474, subject to the appropriation of funds.**
 - (2) **Set forth a revised construction schedule.**
- (b) **Approve an increase in the amount of the City-controlled project contingency by \$385,081 for a total contingency amount of \$1,348,717, subject to the appropriation of funds.**

- 4.1 (c) **Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:**
- (1) **Increase the estimate for Revenue from Federal Government by \$3,102,735.**
 - (2) **Increase the City-Wide appropriation to the Department of Public Works for the USPTO – Tenant Improvements project by \$3,102,735.**
- CEQA: Exempt, File No. PP14-031. (Public Works/City Manager)**

Documents Filed: Memorandum from Interim Director of Public Works Barry Ng and Interim Senior Deputy City Manager/Budget Director Jennifer A. Maguire, dated February 20, 2015, recommending approval of the first amendment to the contract, approve the maximum compensation and adoption of appropriation ordinance and funding sources resolution amendments.

Interim Assistant City Manager David Sykes, Deputy City Manager/Director of Economic Development Kim Walesh and Interim Director of Public Works Barry Ng provided the report, background information and responded to Council questions and concerns.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: John Cabeca, United States Patent and Trademark Office and Ross Signorino expressed support to the Staff recommendations. David Wall voiced opposition to the Staff recommendations.

Mayor Sam Liccardo recommended that the Council direct Staff to return with cost saving measures on the City portion of the project in two weeks.

Motion: Vice Mayor Rose Herrera moved approval of the Staff recommendations, including the direction recommended by Mayor Sam Liccardo: to direct Staff to return with cost saving measures on the City portion of the project in two weeks. Council Member Johnny Khamis seconded the motion.

Action: On a call for the question, the motion carried unanimously, the expenditures related to the USPTO portion were approved. Staff was directed to return with cost saving measures on the City portion of the project in two weeks. Ordinance No. 29542, entitled: “An Ordinance of the Council of the City of San José Amending Ordinance No. 29431 to Appropriate Monies in the General Fund for USPTO Tenant Improvements; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 77297, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 77037 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2014-2015 To Adjust Revenues in the General Fund”, were adopted. (11-0.)

- 4.2 (a) **Adopt a resolution adopting the Mitigated Negative Declaration for the Primrose Preschool Project and the related Mitigation Monitoring and Reporting Program.**
- (b) **Consider an ordinance rezoning the real property located on the west side of Hamilton Avenue, approximately 100 feet south of Hamilton Way (0 Hamilton Avenue) from R-1-8 Residential Zoning District to CN Commercial Neighborhood Zoning District.**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C14-036 and CP14-039, dated January 21, 2015. (2) Memorandum from Planning Commission Secretary Harry Freitas, dated February 10, 2015, transmitting the recommendation of the Planning Commission. (3) Replacement memorandum from Director of Planning, Building and Code Enforcement Harry Freitas, dated February 27, 2015, providing the results of the supplemental Greenhouse Gas emissions analysis. (4) Proof of Publication of Notice of Public Hearing executed on January 9, 2015, submitted by the City Clerk.

Mayor Sam Liccardo presented opening comments.

Erik Schoennauer, representing the Applicant, Primrose Schools, provided details about the construction, including enhancements that will be provided and other pertinent background information.

Assistant City Attorney Ed Moran responded to Council questions and concerns.

Mayor Sam Liccardo opened the Public Hearing on the Environmental Impact Report.

Public Comments: Ron Lindsay, Karen Hammer, Tiralisa Kaplow and Blair Beekman expressed concerns about public safety, traffic and noise.

Mayor Sam Liccardo closed the Public Hearing on the Environmental Impact Report.

Director of Planning, Building and Code Enforcement Harry Freitas offered a brief presentation.

Council Member Pierluigi Oliverio highlighted the background and history of the property.

Motion: Council Member Pierluigi Oliverio moved approval of the Staff recommendations. Vice Mayor Rose Herrera seconded the motion.

Mayor Sam Liccardo and Council Members Kalra, Nguyen and Matthews expressed support to the motion on the floor.

Brief Council discussion ensued.

4.2(a)(b) (Cont'd.)

Mayor Sam Liccardo pointed out that Council will consider the Conditional Use Permit for this project next week on March 10, 2105.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77294, entitled: "A Resolution of the Council of the City of San José Adopting the Primrose Preschool Project Mitigated Negative Declaration, For Which An Initial Study Was Prepared, All In Accordance With the California Environmental Quality Act, As Amended and Adopting a Related Mitigated Monitoring and Reporting Program", was adopted and Ordinance No. 29541, entitled: "An Ordinance of the Council of the City of San José Rezoning Certain Real Property of Approximately 0.92 Acre Situated on the West Side of Hamilton Avenue, Approximately 100 Feet South of Hamilton Way from the R-1-8 Single Family Residence Zoning District to the CN Commercial Neighborhood Zoning District", was passed for publication. (11-0.)

- (c) **Consider a Conditional Use Permit to allow the operation of a two story, 13,545 square foot day care for up to 196 children; and continue this subsection (c) to the City Council meeting of March 10, 2015 for action following final action on the rezoning ordinance.**

**CEQA: Mitigated Negative Declaration. Planning Commission recommends approval (5-0-1). (Planning, Building and Code Enforcement)
C14-036/CP14-039 – District 6**

Action: Item (c) was continued to March 10, 2015.

TRANSPORTATION & AVIATION SERVICES

6.1 Adopt a resolution:

- (a) **Approving a proposed overall Disadvantaged Business Enterprise (DBE) participation race-neutral goal of 7.25% for the Norman Y. Mineta San José International Airport for Federal Fiscal Years 2014-2016;**
- (b) **Authorizing the City Manager to submit the three-year DBE participation plan to the Federal Aviation Administration (FAA); and**
- (c) **Authorizing the City Manager to make revisions as requested by the FAA.**
- CEQA: Not a Project, File No. PP10-066(e), Services involving no physical change to the environment. (Public Works/Airport)
(Deferred from 2/3/15 – Item 6.1)**

Action: Deferred to March 24, 2015 per Administration.

- 6.2 (a) **Adopt a resolution authorizing the City Manager to negotiate and execute a Marketing Reimbursement Agreement with Hainan Airlines Co., Ltd. to provide for a shared marketing program to promote Hainan Airlines new passenger airline service between the Norman Y. Mineta San José International Airport and Beijing Capital International Airport in a total shared marketing expenditure amount of \$600,000, with dollar-for-dollar reimbursement from each party to the other for marketing expenditures made in an amount not to exceed \$300,000 from either party, for a period of two years from the date of Council approval.**
- (b) **Approve a Second Amendment to the Master Agreement for Airport marketing services with Civilian, Inc. (formerly AdEase, Inc.), to increase the compensation by \$600,000, for a total contract amount not to exceed \$8,220,000, to provide funds for a shared marketing program with Hainan Airlines.**

CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Airport)

Documents Filed: Memorandum from Director of Aviation Kim Becker Aguirre, dated February 9, 2015, recommending approval of a marketing reimbursement agreement and a second amendment to the master agreement.

Motion: Vice Mayor Rose Herrera moved approval of the Staff recommendations. Council Member Johnny Khamis seconded the motion.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: David Wall expressed opposition to the Staff recommendations.

Action: On a call for the question, the motion carried unanimously, Resolution No. 77295, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Marketing Reimbursement Agreement with Hainan Airlines Co., LTD., To Provide for a Shared Marketing Program To Promote Its New Passenger Airline Service Between the Norman Y. Mineta San José International Airport and Beijing Capital International Airport in a Total Shared Marketing Expenditure Amount of \$600,000, With Dollar for Dollar Reimbursement from Each Party to the Other for Marketing Expenditures Made in An Amount Not To Exceed \$300,000 From Either Party”, was adopted and a Second Amendment to the Master Agreement for Airport marketing services with Civilian, Inc. (formerly AdEase, Inc.), to increase the compensation by \$600,000, for a total contract amount not to exceed \$8,220,000, to provide funds for a shared marketing program with Hainan Airlines was approved. (11-0.)

6.3 As recommended by the Rules and Open Government Committee on December 10, 2014, modify RFP SJC131415 On-Demand Ground Transportation Management for the Norman Y. Mineta San José International Airport in order to comply with Council direction from March 4, 2014 to ensure the ability to work at the airport will be distributed equally among the companies as follows:

- (a) Delete the following language from the RFP: “It is not expected, nor would an option be reviewed and approved by the Airport that calls for an equal/identical number of drivers to be assigned to the Airport per company despite the size of the company.”**
- (b) Add the following language to the RFP: “Qualified cab companies will be required to provide an equal number of taxi cabs at the Airport to meet the demand from first to last flight, or from 5:00 a.m. to 12:00 midnight. The cab companies can schedule their drivers by 8 hours or more per day shift to give all of their drivers a chance to work at the Airport.”**

(Herrera/Khamis)

[Rules and Open Government Committee 12/10/14 – Item G(5)]

(Deferred from 1/27/15 – Item 6.1, 2/10/15 – Item 6.1 and 2/24/15 – Item 6.1)

Documents Filed: (1) Memorandum from City Clerk Toni J. Taber, CMC, dated January 29, 2015, transmitting the recommendations of the Rules and Open Government Committee. (2) Statement and Declaration of Conflict and Interest from Council Member Magdalena Carrasco, dated March 3, 2015, declaring a conflict of interest involving income from the Yellow Checker Cab Company.

Action: Item 6.3 was dropped.

ENVIRONMENTAL & UTILITY SERVICES

7.1 As recommended by the Transportation and Environment Committee on November 3, 2014:

- (a) Accept the updated staff report regarding the attached Sanitary Sewer Flow.**
- (b) Approve the proposed changes and policy recommendations for future updates to the revenue program for the San José-Santa Clara Regional Wastewater Facility.**

CEQA: Not a Project, File No PP10-067(a), Increase or Adjustments to Fees, Rates and Fares. (Environmental Services)

Documents Filed: (1) Replacement memorandum from Director of Environmental Services Kerrie Romanow, dated February 9, 2015, clarifying and transmitting an updated report, recommending acceptance of the updated Staff report and approval of the proposed changes and policy recommendations to the revenue program for future updates. (2) Memorandum from the Secretary to the Treatment Plant Advisory Committee Kerrie Romanow, dated February 12, 2015, expressing concurrence with the Staff recommendations. (3) Mobilehome Park Roster Information dated March 03, 2015, submitted by Martha O’Connell.

7.1 (Cont'd.)

Motion: Council Member Donald Rocha moved approval of the Staff recommendations. Council Member Pierluigi Oliverio seconded the motion.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Expressing concerns and speaking in opposition to the Staff recommendations were Walter Gannon, Senior Commission; Martha O'Connell, Joyce Rabourn, David Wall and Mary Lou Clark.

Director of Environmental Services Kerrie Romanow responded to Council questions and concerns.

Action: On a call for the question, the motion carried unanimously, the updated staff report regarding the attached Sanitary Sewer Flow was accepted and the proposed changes and policy recommendations for future updates to the revenue program for the San José-Santa Clara Regional Wastewater Facility was approved. (11-0.)

- 7.2 (a) **Accept the staff report detailing the current status of the San José/Santa Clara Regional Wastewater Facility's Pond A18's northern gate structure, the likelihood for failure, the consequences of failure, and the plan for immediate action to remove and replace the structure.**
- (b) **Adopt a resolution by four-fifths of the City Council:**
- (1) **Declaring and finding that, based on substantial evidence, public interest and necessity demand the immediate procurement and award of engineering and construction contracts to perform emergency replacement of the San José/Santa Clara Regional Wastewater Facility's Pond A18's northern gate structure without competitive bidding and that the emergency replacement will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.**
 - (2) **Delegating authority to the Directors of Environmental Services and Public Works to negotiate and award the engineering and construction contracts necessary to replace the northern gate structure in order to protect Pond A18 and levees in an amount not to exceed \$1,000,000.**

**CEQA: Exempt, File No. PP15-015, Section 15302, Replacement or Reconstruction. (Environmental Services/Public Works)
(Rules Committee referral 2/25/15)**

Documents Filed: Memorandum from Director of Environmental Services Kerrie Romanow and Interim Director of Public Works Barry Ng, dated February 25, 2015, forwarding for consideration to Council due to the nature of an emergency, noting that a delay in the approval and procurement period will limit the City's ability to address the situation and avoid potentially catastrophic consequences, and acceptance of the report and adoption of a resolution.

7.2 (Cont'd.)

Motion: Vice Mayor Rose Herrera moved approval of the Staff recommendations. Council Member Donald Rocha seconded the motion.

Interim Director of Public Works Barry Ng and Director of Environmental Services Kerrie Romanow responded to Council questions and concerns.

Mayor Sam Liccardo opened the floor for public testimony.

Public Comments: Cay Denise MacKenzie and David Wall presented comments.

Action: On a call for the question, the motion carried unanimously, the staff report detailing the current status of the San José/Santa Clara Regional Wastewater Facility's Pond A18's northern gate structure, the likelihood for failure, the consequences of failure, and the plan for immediate action to remove and replace the structure was accepted and Resolution No. 77296, entitled: "A Resolution of the Council of the City of San José Declaring and Finding that Public Interest and Necessity Demand the Immediate Procurement and Award of Engineering and Construction Contracts to Perform Emergency Replacement of the Pond A18 Northern Gate Structure Located at the San José/Santa Clara Regional Wastewater Facility Without Competitive Bidding and Delegating Authority to the Directors of Environmental Services and Public Works To Negotiate and Award Said Contracts", was adopted. (11-0.)

REDEVELOPMENT – SUCCESSOR AGENCY

9.1 **Approve an Amendment to the Owner Participation and Loan Agreement, Memorandum of Agreement, Declaration of Operation and Maintenance Covenants, and Affordability Restrictions by and between the Successor Agency to the Redevelopment Agency of the City of San José and the Farmers Union LLC, to amend the legal description for the Vendome Building located at 151 West Santa Clara Street in San José. CEQA: Not a Project, File No. PP10-066, Agreements/Contracts. Council District 3. (Successor Agency to the Redevelopment Agency)**

Documents Filed: Memorandum from Successor to the Redevelopment Agency Managing Director Richard A. Keit, dated February 13, 2015, recommending approval of an amendment to the agreements and operation and maintenance covenants and restrictions.

Action: Upon motion by Council Member Donald Rocha , seconded by Council Member Pierluigi Oliverio and carried unanimously, an Amendment to the Owner Participation and Loan Agreement, Memorandum of Agreement, Declaration of Operation and Maintenance Covenants, and Affordability Restrictions by and between the Successor Agency to the Redevelopment Agency of the City of San José and the Farmers Union LLC, to amend the legal description for the Vendome Building located at 151 West Santa Clara Street in San José was approved. (11-0.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>		<u>Council</u> <u>District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
10295	Communications Hill Blvd	7	KB Home, Inc.	85 Lots	Finance

OPEN FORUM

- (1) Brian Darby thanked the Mayor and Council for all of their hard work.
- (2) David Wall provided information about the Water Pollution Control Plant and the operations and maintenance fund.
- (3) Blair Beekman expressed opposition to the Drone Program.

ADJOURNMENT

The Council of the City of San José was adjourned at 4:48 p.m. in memory of Jessie Singh, beloved father, husband and community leader. (Kalra)

Minutes Recorded, Prepared and Respectfully Submitted by,

Toni J. Taber, CMC
City Clerk

/smd 03-03-15 MIN

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